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Attorney for Glenio Silva

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) No. CR-07-00678-JSW
Plaintiff,)
Vs.) DECLARATION OF STEVEN F. GRUEL IN
GLENIO JESUA FERREIRA SILVA,) SUPPORT OF DEFENDANT GLENIO
Defendant.) SILVA'S MOTION TO COMPEL
) DISCOVERY
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I, STEVEN F. GRUEL, declare as follows:

1. I make this declaration in support of Glenio Silva's Motion For Additional Discovery.

Unless otherwise stated, the facts in this declaration are true of my personal knowledge.

2. Prior to becoming a criminal defense attorney, I served in the United States Justice Department. First, from 1987 to 1989 I was a trial attorney with the Immigration and Naturalization Service (INS) at 630 Sansome Street in San Francisco. From 1989 to 2005 I was a Special Assistant and then Assistant United States Attorney prosecuting federal criminal cases in the Northern District of California – San Francisco, Oakland, and San Jose. During that time

DECLARATION OF STEVEN E. GRUEL IN SUPPORT OF DEFENDANT GLENIO SILVA'S MOTION FOR DISCOVERY

1 I spent over 10 years in the Organized Crime and Racketeering Section (OCRS). I served as the
2 Acting Chief of the OCRS in 2002 and was the Chief of the Major Crimes Section from 2002 -
3 2004.

4 3. Defense and government counsel have discussed Mr. Silva's recent discovery requests.
5 While many items were worked out between the parties, the limited discovery requests outlined
6 in the defendant's motion to compel discovery were not. Consequently, these specific requests
7 are in the Motion to Compel filed herewith.

8 4. While working with the INS, in addition to representing the government at deportation
9 hearings, I also worked in the Employer' Sanctions Unit (ESU). The ESU enforced violations by
10 employers for knowingly hiring workers who were illegally in the United States. INS has been
11 replaced by the agency called Immigration and Customs Enforcement (ICE). I know that ICE
12 includes a program called worksite enforcement as a part of its investigative responsibilities.

13 5. I have reviewed the discovery in this case and learned that an informant (s) were used as part
14 of the investigation. One informant was the former manager and "investor" as Monterey Pizza
15 named Silvano Santos. The government has openly disclosed Mr. Santos as an informant. The
16 other informant is identified only as SA-1180-SF was used by the government in its investigation.
17

18 According to the ICE reports, SA-1180-SF told ICE agents that Mr. Silva employed illegal
19 aliens and helped them in getting counterfeit documents likes phony California Driver's Licenses.
20 SA-1180-SF also said that Mr. Silva helped obtain fake social security cards and Puerto Rican
21 birth certificates in order to obtain California Driver's Licenses. SA-1180-SF also said that Mr.
22 Silva charged individuals \$4,000.00 to obtain phony California Driver's license.
23

24 6. According to the government's discovery, SA-1180-SF was more than a "tipster" in that
25 on at least one occasions he met with ICE agents on March 5, 2007 and provided them with
26 copies of the "books" kept by Mr. Silva for Monterey Pizza. These "books" were provided 3

1 months before the June 15, 2007 raid at Monterey Pizza. The "books" obtained by SA-1180-SF
2 from Mr. Silva allegedly recorded daily pizza sales and daily payments to employees.

3 Further, SA-1180-SF provided ICE agents with updated personal contact information for
4 Mr. Silva, such as his home telephone number, cell phone number and Mr. Silva's wife's cell
5 phone number. Therefore, either the case involves one informant (Mr. Santos) or two
6 informants, the other being SA-1180-SF. If SA-1180-SF is Silvano Santos, it then appears that
7 ICE had an informant working undercover at Monterey Pizza before the June 15, 2007 raid. The
8 defense has not been told anything about an undercover operation in this case.

9
10 If SA-1180-SF is someone other than Silvano Santos disclosure of the person's identity is
11 required because this person clearly had an active role in the investigation beyond that as tipping
12 the police with information.

13
14 7. ICE has a website describing the worksite enforcement mission. It states in part:
15
16 Worksite Enforcement (WSE) Investigations

17
18 Worksite Enforcement investigations focus on egregious employers involved in criminal
19 activity or worker exploitation. This type of employer violation will often involve alien
20 smuggling, document fraud, human rights abuses and/or other criminal or substantive
21 administrative immigration or customs violations having a direct nexus to the employment of
unauthorized workers. Worksite investigations also encompass employers who are subjecting
unauthorized alien workers to substandard or abusive working conditions. Also included in these
types of investigations are employers who utilize force, threat, or coercion, such as threats to
have employees deported in order to keep the unauthorized alien workers from reporting the
substandard wage or working conditions.

22 The Worksite Enforcement Unit's mission encompasses enforcement activities intended to
23 mitigate the risk of terrorist attacks posed by unauthorized workers employed in secure areas of
our nation's critical infrastructure. In order to fulfill this mission, ICE special agents apply risk
24 assessment principles to their critical infrastructure and worksite enforcement cases in order to
maximize the impact of our limited resources against the most significant threats and violators.

25 Though worksite enforcement efforts are focused on investigations related to critical
26 infrastructure and national security, these efforts and resources are also extended to other places

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1 of employment. Unauthorized workers employed at sensitive sites and critical infrastructure
2 facilities—such as airports, seaports, nuclear plants, chemical plants and defense facilities—pose
serious homeland security threats.

3 Worksite enforcement investigations often involve egregious violations of criminal statutes by
4 employers and widespread abuses, and by uncovering such violations, ICE can send a strong
5 deterrent message to other employers who knowingly employ illegal aliens. These worksite
6 enforcement cases often involve additional violations such as alien smuggling, alien harboring,
document fraud, money laundering, fraud or worker exploitation.

7 The complete webpage is attached hereto as Exhibit A.

8 8. ICE's website also includes a section detailing media releases regarding nationwide
9 worksite enforcement. I reviewed this section and found 3 enforcements in the San Francisco
10 Bay Area. One of these cases is the June 15, 2007 ICE raid and arrests pertaining to the two
11 pizza parlors. The other two local worksite enforcement actions involve the arrest of seven
12 illegal workers from Mexico at a customs warehouse at the Port of Oakland and the other case
13 pertains to the investigation and arrests at a Oakland cabinet shop. The three ICE media
14 accounts are attached hereto as Exhibit B and fully incorporated herein.

16 9. San Francisco has proclaimed that it is a sanctuary city. Since 1989, as such, city employees
17 have been and are mandated not to assist INS, and its successor ICE, with the detection,
18 apprehension or assistance of illegal aliens residing in San Francisco. Attached hereto as Exhibit
19 C is a recent press release from San Francisco Mayor's website regarding the sanctuary city
20 status.

22 I declare under penalty of perjury that the foregoing is true and correct to the best of my
23 personal knowledge. Executed this 17 day of April 2008, at San Francisco, California.
24

25 _____
26 /s/
STEVEN F. GRUEL, Esquire
Attorney for Glenio Silva

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